

## REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 37 and 38 have been amended. Support for the amendments is provided, for example, in Applicants' Fig. 8. The amendments were not presented earlier due to the unforeseeability of the remarks presented in the Final Rejection. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

It is noted that the obviousness-type double patenting rejections applied to claims 37 and 38 are provisional. The Applicants submit that these rejections should be withdrawn. Claim 37 defines a radio communication apparatus that receives information corresponding to a number of subcarrier blocks, each having multiple subcarriers, to be used for averaging reception quality. The Final Rejection does not propose that Applicants' co-pending application 12/341,306 claims this subject matter or that Hashem supplements the claims of 12/341,306 in this regard. Claim 38 similarly recites this subject matter, but with respect to a method. Therefore, withdrawal of the obviousness-type double patenting rejections applied to claims 37 and 38 is deemed to be warranted.

With regard to the section 112, first paragraph, rejections, the Final Rejection rejects claims 37 and 38 for reciting a single valued channel quality indicator (CQI) that is unsupported by the original application (see Final Rejection page 4, lines 5-6 of second to last paragraph). However, paragraph [0084], third sentence, of Applicants' published specification recites:

*The CIRs of the selected usable blocks are averaged by the CIR averaging section 309, a CQI corresponding to the CIR average value is generated by the CQI generation section 310 and the CQI is output to the transmission section*  
(emphasis added).

Applicants' disclosure of "a CQI corresponding to the CIR average value" is an express disclosure that a single CQI is generated that corresponds to a single value obtained by averaging carrier to interference ratios (CIRs). Accordingly, the Applicants submit, despite the deletion of the word "single" from the claims, that support exists in the original application for a single valued CQI. Therefore, withdrawal of the section 112, first paragraph, rejections is deemed to be warranted.

Claims 37 and 38 were rejected, under 35 USC §103(a), as being unpatentable over Li et al. (US 2009/0279498) in view of Hashem (US 2004/0125743). To the extent that these rejections may be deemed applicable to the amended claims, the Applicants respectfully traverse as follows.

Claim 37 defines:

*37. A radio communication apparatus for receiving an orthogonal frequency division multiplexing (OFDM) signal, the radio communication apparatus comprising: a reception section that receives information of a number from a communicating party, the number corresponding to subcarrier blocks to be used for averaging reception quality, each of the subcarrier blocks including a plurality of subcarriers; a subcarrier block selection section that selects subcarrier blocks up to the number, the selected subcarrier blocks providing preferred reception quality; a CQI generating section that generates one channel quality indicator (CQI), the CQI being a value representing an average of reception quality based on the average of only the selected subcarrier blocks; and a reporting section that reports, to the communicating party, the generated CQI and information indicating positions of the selected subcarrier blocks.*

Thus, claim 37 provides a radio communication apparatus that: (1) receives information of a number from a communicating party, (2) selects a number, equal to the number indicated by the received information, of subcarrier blocks providing preferred reception quality, and (3)

generates a channel quality indicator (CQI) representing the average reception quality of the selected subcarrier blocks.

Li does not disclose the above-identified subject matter of claim 37. Instead, Li discloses, in Fig. 5, a subscriber that communicates to a base station: (1) the identification of each of a plurality of selected clusters (e.g., corresponding to the claimed subcarrier blocks) and (2) an average value of reception quality for the subcarriers within each selected cluster (see Li paragraph [0077], lines 1-11).

Thus, Li discloses that a base station receives the information from which a number of clusters (e.g., corresponding to the claimed subcarrier blocks) may be determined, whereas a subscriber generates the average value of channel quality.

By contrast to Li's disclosure, claim 37 recites that the same communication apparatus: (1) receives information indicating a number of subcarriers and (2) generates a CQI representing the average reception quality of the subcarriers within a number of subcarrier blocks indicated by the received information.

Hashem does not supplement the teachings of Li in this regard.

Although Hashem may disclose calculating an average channel quality for groups of subcarriers (see Hashem paragraph [0008], lines 1-3), as proposed in the Final Rejection (see Final Rejection page 6, lines 7-8), Hashem does not disclose Applicants' claimed manner for selecting the groups of subcarriers. Applicants' claimed communication apparatus selects a number of groups equal to a number indicated by received information, whereas Hashem discloses, in Fig. 2, selecting all subcarrier groups whose signal to interference ratios (S/I<sub>s</sub>) exceed a threshold value 44 (see paragraph [0020], lines 4-13, and paragraph [0030], lines 1-3).

Simply stated, neither Li nor Hashem discloses Applicants' claimed subject matter of generating a CQI representing the average reception quality of subcarriers within a number of subcarrier blocks indicated by received information.

Accordingly, the Applicants submit that the teachings of Li and Hashem, even if combined as proposed in the Final Rejection, still would lack the above-noted features of claim 37 and thus these references, considered individually or in combination, do not render obvious the subject matter now defined by claim 37. Independent claim 38 now similarly recites the above-mentioned subject matter distinguishing apparatus claim 37 from the applied references, but with respect to a method. Therefore, allowance of claims 37 and 38 is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: December 20, 2010  
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